

REMARKS

Claims are now pending in the application. The Examiner is respectfully requested to reconsider and withdraw the rejection(s) in view of the amendments and remarks contained herein.

REJECTION UNDER 35 U.S.C. § 102

Claims 1-6 and 8-10 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,778,778 (Richard). This rejection is respectfully traversed.

Richards is directed generally to an arrangement for testing a telecommunications circuit. Briefly, a transmitter is optically coupled to the network and transmits a test-drive signal on the network. Performance of the network is monitored at points along the network based on the transmitted test-drive signal. Contrary to the Examiner's assertions, network performance is monitored via external communication links with each of the network elements (e.g., see. col. 5, lines 32-42). In other words, Richards fails to teach or suggest as a network diagnostic system where diagnostic requests and other information is communicated in amongst the network elements using an optical supervisory channel as recited in Applicant's claimed invention.

It is believed that the originally filed claims are patentably distinct over Richards. For example, the transmitter 12 is manually coupled to the network being monitored, and thus does not constitute a network element in the sense recited in the originally filed claims. Nonetheless, Applicant has amended the pending claims to more clearly define certain aspects of the present invention. Specifically, Claim 1 has been amended to recite a "second network element adapted to receive a request to initiate the network

diagnostic operation from the network diagnostic device, [where] the second element operable to map the request into at least one optical network frame and transmit the optical network frame over an optical supervisory channel of the optical transport network to the first network element" in combination with other elements of the claim. Since this aspect of the present invention is clearly absent from Richards, it is respectfully submitted that this claims defines patentable subject matter. Accordingly, Applicant respectfully requests reconsideration and withdrawal of this rejection.

REJECTION UNDER 35 U.S.C. § 103

Claims 7 and 11-36 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Richards. This rejection is respectfully traversed.

Applicant notes that independent Claim 21 has been similarly amended, and thus should be allowable, along with claims depending therefrom, for the same reasons as Claim 1.

With regard to independent Claims 34-36, these claims are directed generally to data records for communicating network performance data. As noted by the Examiner, Richards fails to disclose the particular diagnostic operations associated with these data records. For sake of argument it is assumed that such operations are known in the art, data records for communicating results from these operations are not also obvious from Richards. Accordingly, Applicant respectfully requests reconsideration and withdrawal of this rejection.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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